

# **EXHIBIT 2**

1 IN THE UNITED STATES DISTRICT COURT  
2 FOR THE NORTHERN DISTRICT OF OHIO  
3 EASTERN DIVISION  
4 - - -  
5

6 IN RE: NATIONAL : HON. DAN A.  
7 PRESCRIPTION OPIATE : POLSTER  
LITIGATION :  
8 APPLIES TO ALL CASES : NO.  
: 1:17-MD-2804  
9 :  
10 - HIGHLY CONFIDENTIAL -  
11 SUBJECT TO FURTHER CONFIDENTIALITY REVIEW  
12 VOLUME I  
13 - - -  
14 April 17, 2019  
15 - - -  
16 Videotaped deposition of  
17 THOMAS PREVOZNIK, taken pursuant to  
notice, was held at the law offices of  
18 Williams & Connolly, 725 12th Street,  
Washington, D.C., beginning at 9:11 a.m.,  
on the above date, before Michelle L.  
19 Gray, a Registered Professional Reporter,  
Certified Shorthand Reporter, Certified  
20 Realtime Reporter, and Notary Public.  
21 - - -  
22

23 GOLKOW LITIGATION SERVICES  
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deps@golkow.com  
24

1 need to follow up on.

2 Q. Okay. And how can you tell  
3 if an order is a typical order versus one  
4 that deviates substantially from a normal  
5 pattern?

6 A. Well, I apologize. It's --  
7 I don't know if you can say what the  
8 difference is a typical order and that.  
9 What you have is you have a history of  
10 what are -- what are the sales to that  
11 distributor. So you would start with  
12 that. But as you -- as you -- as the  
13 customers -- you know, what questions are  
14 you asking the distributors? Are you  
15 asking them for their customers? And,  
16 you know, who are they selling to?

17 And then you can look at  
18 newspaper articles and see the overdose  
19 deaths. You can see this is affecting  
20 these communities that these product,  
21 your products, are going into, because  
22 that distributor is putting them in  
23 there. So you would have to start asking  
24 those questions.

1                   Q.        But when a manufacturer  
2 receives an order from a distributor, how  
3 do you tell whether that particular order  
4 deviates from a normal pattern, even  
5 looking at the sales history to that  
6 distributor?

7                   A.        I'm not sure I'm following.

8                   Q.        Well, I'm just asking you,  
9 DEA has imposed this obligation on  
10 manufacturers. And I'm wondering whether  
11 DEA has a position on how a manufacturer  
12 should determine whether a particular  
13 order that comes into it from a  
14 distributor, deviates from a normal  
15 pattern?

16                  A.        Well, I mean, you can go  
17 back to the internet days when it was --  
18 the pattern was all of the sudden  
19 products that were skyrocketing to the  
20 millions and hundreds of thousands that  
21 were never there.

22                  Q.        So you're saying if a  
23 product was not being purchased at all  
24 previously and then skyrocketed --

1                   A.     I'm not saying not at all.  
2     But if it's -- if it's not been used  
3     much, and then all of the sudden it takes  
4     off.

5                   Q.     Okay. And if it does take  
6     off, is that enough to conclude that the  
7     product is being diverted?

8                   A.     I don't think it's enough to  
9     conclude that it's diverted, just based  
10    on that. But it should be enough to make  
11    it a suspicious order, to at least report  
12    it.

13                  Q.     Okay. And how big an  
14    increase do you have in mind when you say  
15    skyrocket?

16                  A.     I don't have a number in  
17    mind.

18                  Q.     It sort of depends on the  
19    situation?

20                  A.     It depends on the situation,  
21    yeah.

22                  Q.     All right. How about with  
23    respect to unusual frequency? When a  
24    manufacturer receives an order from a

1 distributor, how does it determine  
2 whether the order is one of unusual  
3 frequency?

4 A. Well, again, are they  
5 ordering more and more? I mean, again,  
6 it depends on the situation. Again,  
7 these are not -- not one particular  
8 thing. It could be two of them, it could  
9 be three of them. It could be any  
10 information that you have obtained that  
11 has and shows or that indicates that your  
12 product may be being diverted, then you  
13 have the responsibility to guard that  
14 from doing that. So that would trigger a  
15 suspicious order.

16 Q. So fair to say whether an  
17 order is of an unusual frequency requires  
18 some -- some judgment?

19 A. Yes.

20 Q. It's fair to say that it's  
21 in the eye of the beholder?

22 A. I don't think it's in the  
23 eye of the beholder because it's -- the  
24 data is going to show you what is going

1                    Does every order that's  
2        unusually large necessarily lead to  
3        diversion?

4                    A.      I have no idea.

5                    MS. SINGER: Objection.

6                    Scope.

7                    THE WITNESS: I have no idea  
8        what you mean by unusually large.

9        BY MR. O'CONNOR:

10                  Q.      Okay. As the term  
11       "unusually large" is used in the  
12       suspicious order monitoring regulation,  
13       are orders that are unusually large  
14       necessarily diverted?

15                  A.      Well, for example, a bottle  
16       of 100 Vicodin from a manufacturer to a  
17       vet, is that unusually large?

18                  Q.      Is it?

19                  A.      I don't think it's unusually  
20       large, but it would raise my eyebrows of  
21       why would -- why would a vet be ordering  
22       that bottle when they know that the  
23       toxicity to cats and dogs would kill  
24       them. So I don't think you can just look

1 at a number and say that's too big.

2 MR. O'CONNOR: Whoever is on  
3 the phone needs to go on mute.

4 MR. FINKELSTEIN: Whoever is  
5 on the phone please mute your  
6 phone.

7 BY MR. O'CONNOR:

8 Q. Before we get back to my  
9 question, I just want to be clear.  
10 Are -- are vets required to obtain a DEA  
11 registration before they order controlled  
12 substances?

13 A. Yes.

14 Q. And the DEA issues some  
15 veterinarians registrations to allow them  
16 to purchase controlled substances?

17 A. Correct.

18 Q. Okay. I do -- I do want to  
19 get back to my original question though,  
20 which was, is an order that is unusually  
21 large, does that order necessarily lead  
22 to diversion?

23 MR. FINKELSTEIN: Objection.

24 Vague.

1                           THE WITNESS: It may or  
2                           may -- it may or may not.

3 BY MR. O'CONNOR:

4                           Q. Would the same be true of an  
5 unusually frequent order?

6                           MR. FINKELSTEIN: Same  
7 objection. You can answer.

8                           THE WITNESS: Correct. It  
9 may or may not.

10 BY MR. O'CONNOR:

11                          Q. And the same would be true  
12 of an order that deviates substantially  
13 from the normal pattern?

14                          MR. FINKELSTEIN: Same  
15 objection. You can answer.

16                          THE WITNESS: Correct. It  
17 may or may not.

18 BY MR. O'CONNOR:

19                          Q. Okay. And putting that  
20 together, that means that not every  
21 suspicious order leads to diversion,  
22 correct?

23                          MR. FINKELSTEIN: Objection.  
24 Scope. You can answer.

1 THE WITNESS: Could you  
2 please repeat that?

3 BY MR. O'CONNOR:

4 Q. Not every suspicious order  
5 leads to diversion, correct?

6 A. Correct.

7                   Q.       I want to talk a little bit  
8 about how suspicious order reports are --  
9 are used within DEA.

10 Is it fair to say that most  
11 suspicious order reports are submitted to  
12 field offices?

13                   A.       I would say based on the  
14      fact that the big three are filing  
15      electronically, I would say the majority  
16      electronically.

17 Q. When an order or when  
18 suspicious order reports are filed  
19 electronically, does that mean they are  
20 filed with headquarters?

21                   A.       Yes. On the Legacy and the  
22 vetted system.

23 Q. Okay. And do registrants  
24 that are not reporting electronically to

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15                   VOLUME II  
16                   - - -  
17                   April 18, 2019  
18                   - - -  
19                   Continued videotaped  
20                   deposition of THOMAS PREVOZNIK, taken  
21                   pursuant to notice, was held at the law  
22                   offices of Williams & Connolly, 725 12th  
23                   Street, Washington, D.C., beginning at  
24                   8:16 a.m., on the above date, before  
                 Michelle L. Gray, a Registered  
                 Professional Reporter, Certified  
                 Shorthand Reporter, Certified Realtime  
                 Reporter, and Notary Public.

25                   - - -  
26                   GOLKOW LITIGATION SERVICES  
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28                   deps@golkow.com  
29

1       "Approximately how many websites  
2       currently offer to sell controlled  
3       substances illegally over the internet?"

4                          Do you see that?

5                          A.     Yes.

6                          Q.     Okay. Now, if you look down  
7        towards the -- the middle of the  
8        response, there's a state -- there's a  
9        sentence that starts it should be noted.

10          Do you see that?

11          A.     Yes.

12          Q.     The statement reads: "It  
13        should be noted that there are legitimate  
14        pharmacies that provide controlled  
15        substances via the internet and operate  
16        daily within the boundaries of the law."

17          Do you see that?

18          A.     Yes.

19          Q.     Do you agree with that?

20                          MR. FINKELSTEIN: Scope.

21                          Calls for speculation.

22                          THE WITNESS: Yeah, this is  
23        before the Ryan-Haight Act. So,  
24        yes.

1 BY MR. STEPHENS:

2 Q. Okay. So my -- my point  
3 was, some internet pharmacies in the eyes  
4 of DEA were rogue and diverted opioids --  
5 or diverted controlled substances, fair?

6 A. Fair.

7 Q. All right. Other online  
8 internet pharmacies were not rogue  
9 pharmacies and operated within the  
10 boundaries of the law in the eyes of DEA  
11 as of May 16, 2007, based on what DEA  
12 told the Senate, right?

13 A. Correct.

14 Q. Okay. Now, did DEA blame  
15 the internet pharmacies who were acting  
16 within the boundaries of the law for the  
17 actions of the rogue internet pharmacies  
18 who DEA thought were diverting  
19 prescription opioids?

20 MS. SINGER: Objection.

21 Scope.

22 MR. FINKELSTEIN: Vague.

23 Incomplete hypothetical.

24 THE WITNESS: Not really

1                   sure what you mean by the use of  
2                   the word "blame."

3     BY MR. STEPHENS:

4                   Q.     Did DEA take any action,  
5     civil, regulatory, administrative,  
6     against legitimate internet pharmacies  
7     who DEA thought was acting within the  
8     boundaries of the law for the actions of  
9     the other internet pharmacies who DEA  
10    thought were rogue and were diverting  
11    controlled substances?

12                  MR. FINKELSTEIN: Vague.

13                  Incomplete hypothetical.

14                  THE WITNESS: I'm not aware  
15                  of it.

16     BY MR. STEPHENS:

17                  Q.     Okay. So one aspect that  
18     DEA included in its internet distributor  
19     briefing related to the percentage of  
20     controlled versus noncontrolled  
21     substances that a particular pharmacy  
22     ordered, right?

23                  MR. FINKELSTEIN: Vague.

24                  THE WITNESS: Correct.

1                         answered.

2                         THE WITNESS: Correct.

3                         MR. STEPHENS: I'm just  
4                         trying to set the time frame for  
5                         the witness.

6 BY MR. STEPHENS:

7                         Q.         Do you understand what I'm  
8                         saying, Mr. Prevoznik?

9                         A.         Yes.

10                        Q.         Okay. All right. So it was  
11                         in the -- in -- approximate time frames  
12                         here, and clarify to whatever degree you  
13                         feel you need to, Mr. Prevoznik. But  
14                         roughly in 2009, 2010, and shortly after  
15                         that, the DEA started to have more issues  
16                         with rogue pain clinics, right?

17                        A.         Correct.

18                        Q.         Okay. Did DEA ever conduct  
19                         a distributor briefing with retail chain  
20                         pharmacies related to rogue pain clinics?

21                        MR. FINKELSTEIN: Asked and  
22                         answered.

23                         THE WITNESS: Correct.

24 BY MR. STEPHENS:

1                   Q.        Okay. So now like rogue --  
2       or I'm sorry, strike that. Let me re-ask  
3       the question.

4                   Like internet pharmacies,  
5       DEA -- DEA would agree that not all pain  
6       clinics diverted controlled substances?

7                   MR. FINKELSTEIN: Calls for  
8       speculation. Asked and answered.

9                   THE WITNESS: Correct.

10          BY MR. STEPHENS:

11                  Q.        Okay. There was some good  
12       pain clinics who operated within the  
13       boundaries of the law and there were some  
14       rogue pain clinics that operated outside  
15       the boundaries of the law.

16                  Is that fair?

17                  MS. SINGER: Same objections  
18       as to scope of the questioning  
19       here.

20                  THE WITNESS: Yes.

21          BY MR. STEPHENS:

22                  Q.        Okay. Did DEA file any  
23       lawsuits against the good pain clinics to  
24       try and make them pay for the harm caused

1 by the rogue pain clinics?

2 MR. FINKELSTEIN: Objection.

3 Vague.

4 THE WITNESS: Not that I'm  
5 aware of.

6 BY MR. STEPHENS:

7 Q. Okay. And like the rogue  
8 internet pharmacies that preceded them,  
9 these rogue pain clinics that were  
10 diverting controlled substances typically  
11 distributed a lopsided ratio of  
12 controlled substances to noncontrolled  
13 substances?

14 MS. SINGER: Objection.

15 Scope.

16 THE WITNESS: To my -- yes.

17 BY MR. STEPHENS:

18 Q. Okay. The -- rogue pain  
19 clinics were not full service pharmacies  
20 like a retail chain pharmacy like Walmart  
21 or CVS, Rite Aid or Walgreens, right?

22 MR. FINKELSTEIN: Calls for  
23 speculation. Foundation.

24 THE WITNESS: I'm not sure